

# Client Alert

## New Guidance for Independent Contractors, Sole Proprietors and Partnerships under the Paycheck Protection Program

On April 14, 2020, the SBA issued additional guidance on certain aspects of the Paycheck Protection Program (PPP) loans in the form of an additional Interim Final Rule, a copy of which can be found [here](#).

### Independent Contractors and Sole Proprietors

Most of the new guidance addressed PPP loans to individuals with self-employment income including how to determine the maximum amount of the loan and the amount that can be forgiven. In general, the guidance permits individuals to use their self-employment income from Schedule C of their 2019 income tax returns up to \$100,000 as a payroll cost. The taxpayer must provide the Schedule C to the lender with the loan application, whether or not the 2019 tax return has been filed with the IRS. With regard to the amount of the loan that can be forgiven, in addition to payroll costs for employees, and certain interest, rent and utility payments, there is a component for owner compensation equal to the individual's 2019 self-employment income up to a maximum of \$100,000 prorated for 8 weeks (8/52). In addition to the general uses for PPP loan proceeds, an additional amount can be used by the individual as an owner compensation replacement, again equal to a prorated portion of the individual's 2019 self-employment income up to \$100,000.

### Partnerships

The additional guidance also clarified that eligible businesses which are partnerships, but not the partners, can apply for PPP loans. The self-employment income of general active partners may be reported as a payroll cost up to an annualized amount of \$100,000. This guidance also applies to limited liability companies (LLCs) that are taxed as partnerships for federal income tax purposes. However, the reference to "general active partners" leaves open the question as to how it will apply to members of LLCs. By analogy, it should include members of LLCs who are actively involved in the management of the LLCs. One way of applying this rule would be to include those members who report their Schedule K-1 income from the LLC as subject to self-employment taxes. Further guidance is needed on this issue.

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